

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:)	
MICHAEL DAVID SCOTT,)	Case No. 17-70045-JAD
Debtor.)	
	X	Chapter 7
)	
MICHAEL DAVID SCOTT,)	
Movant,)	Related to Doc. No. 468
)	
- v -)	
)	
ESSEX COUNTY CORRECTIONAL)	
FACILITY (ECCF), JASON FARRO,)	
and CAPTAIN STATENZI,)	
)	
Respondents.)	
	X	

**ORDER GRANTING THE MOTION TO COMPEL
THE ESSEX COUNTY CORRECTIONAL FACILITY TO TURN OVER THE
DEBTOR'S THUMB DRIVE and C.D.'S**

On January 12, 2018, the Court conducted a hearing on a motion filed by the above captioned Debtor entitled: *Motion to Order the Essex County Correctional Facility to Turn Over the Debtor's Thumb Drive and C.D.'s Containing Critical Evidence to Support the Trustee's Investigation in the Claim Against Collora LLP and Others* (the "Motion to Compel").

At the hearing, the Debtor represented that had duly served the Motion to Compel upon the Respondents, and the record reflects that the Debtor duly filed proof of service. None of the Respondents appeared and objected to the relief

sought by the Motion to Compel. In addition, the Chapter 7 Trustee, through his legal counsel, appeared and had no opposition to the Motion to Compel.

In a nutshell, the Debtor is an inmate currently housed at the Federal Correctional Institute in Loretto, PA. At some time during his journey through the criminal justice system, the Debtor was housed at the Essex County Correctional Facility located in Middleton, MA.

The gist of the Motion to Compel is that assets of this bankruptcy estate include various alleged causes of action against Collora, LLP and others. Assets of the estate also include any and all records of the Debtor which can aid the Chapter 7 Trustee in the investigation of such causes of action, including electronic media the Debtor claims exists at the Essex County Correctional Facility in the form of a "thumb drive" and computer "C.D.'s." To the extent such assets do exist, 11 U.S.C. § 541 supports the notion that they are property of the estate.

11 U.S.C. § 542 further supports that such assets of the estate, to the extent they exist, should be turned over to the Chapter 7 Trustee.

Given the foregoing, the Court hereby ORDERS, ADJUDGES and DECREES that:

1. The Motion to Compel is granted.
2. By no later than February 16, 2018, the Respondents shall account and turnover to the Chapter 7 Trustee, James R. Walsh, all assets of Michael David Scott in its or its' agents possession, custody and control. Such assets include, or may include, any and all electronic media of Michael David Scott including any thumb drives and computer C.D.'s.

3. Unless the Court authorizes otherwise, the accounting and property shall be delivered to the Chapter 7 Trustee at the following address:

James R. Walsh, Esq.
Spence, Custer, Saylor, Wolfe & Rose, LLC
1067 Menoher Boulevard
Johnstown, PA 15905
4. Any accounting provided by the Respondents shall identify the particulars of any property of Michael David Scott destroyed, returned or disposed of by the Respondents, and when such property was disposed.
5. Upon the Chapter 7 Trustee's receipt of the "thumb drives" and "C.D.'s," the Chapter 7 Trustee shall make such property available to the Debtor for inspection for claims of privilege. To the extent the Debtor asserts any claim of privilege that the Chapter 7 Trustee objects, the parties may request that the Court review the disputed materials *in camera* and determine the merits of any claim of privilege. The Chapter 7 Trustee may not review the contents of the "thumb drive" and "C.D.'s", if any, produced by the Respondents until such time the Debtor has had the opportunity to inspect the same and determine whether any of the materials are protected under an applicable claim of privilege.
6. The Debtor shall promptly serve a copy of this Order upon all Respondents and file a certificate of service with the Court.

Date: January 16, 2018


Jeffery A. Deller
Chief U.S. Bankruptcy Judge

CASE ADMINISTRATOR SHALL SERVE:

Michael David Scott, via regular mail
Michael David Scott, via email: khite@bop.gov

00023144

-3-

FILED
1/16/18 12:56 pm
CLERK
U.S. BANKRUPTCY
COURT - WDPA

In re:
Michael David Scott
Debtor

Case No. 17-70045-JAD
Chapter 7

CERTIFICATE OF NOTICE

District/off: 0315-7

User: gamr
Form ID: pdf900

Page 1 of 2
Total Noticed: 1

Date Rcvd: Jan 16, 2018

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jan 18, 2018.

db +Michael David Scott, 772 Saint Joseph St., c/o FCI Loretto, Loretto, PA 15940-7006

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE.

TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jan 18, 2018

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on January 16, 2018 at the address(es) listed below:

Brett L. Messinger on behalf of Defendant US Bank National Association as Trustee
blmessinger@duanemorris.com, LMTryon@duanemorris.com
 Brett L. Messinger on behalf of Creditor US Bank National Association as Trustee for Credit
Suisse First Boston Mortgage Securities Corp. Mortgage Backed Pass Through Certificates Series
2004-AR-7 and Ocwen Loan Servicing, LLC blmessinger@duanemorris.com, LMTryon@duanemorris.com
 Brett L. Messinger on behalf of Defendant Ocwen Loan Servicing LLC
blmessinger@duanemorris.com, LMTryon@duanemorris.com
 Brett L. Messinger on behalf of Defendant U.S. Bank National Associates as Trustee For Credit
Suisse First Boston Mortgage Securities Corp blmessinger@duanemorris.com,
LMTryon@duanemorris.com
 Brett L. Messinger on behalf of Defendant U.S. Bank National Association as Trustee for
Credit Suisse First Boston Mortgage Securities Corp. Mortgage Pass Through Series 2004-AR7
blmessinger@duanemorris.com, LMTryon@duanemorris.com
 Brett L. Messinger on behalf of Creditor U.S. Bank, National Association as Trustee Under the
Pooling and Servicing Agreement Dated as of May 1, 2006, GSAMP Trust 2006-HE3 Mortgage
Pass-Through Certificates Series 2006-HE3 and Ocwen Loan Ser blmessinger@duanemorris.com,
LMTryon@duanemorris.com
 Denver E. Wharton on behalf of Creditor Khanda, LLC dew@ktwllaw.com,
r42123@notify.bestcase.com
 Heather A. Sprague on Behalf of the United States Trustee by on behalf of U.S. Trustee
Office of the United States Trustee Heather.Sprague@usdoj.gov
 James Warmbrodt on behalf of Creditor BANK OF AMERICA, N.A. bkgroup@kmllawgroup.com
 James A. Prostko on behalf of Creditor U.S. Bank, National Association, as Trustee, et al...
pawb@fedphe.com, james.prostko@phelanhallinan.com
 James A. Prostko on behalf of Creditor The Bank Of New York Mellon Trust Company, N.A., et.
al. pawb@fedphe.com, james.prostko@phelanhallinan.com
 James A. Prostko on behalf of Attorney James A. Prostko pawb@fedphe.com,
james.prostko@phelanhallinan.com
 James R. Walsh jwalsh@spencecuster.com,
trustee@spencecuster.com;kpetak@spencecuster.com;rsnyder@spencecuster.com;skosis@spencecuster.com
;mskunta@spencecuster.com;jwalsh@ecf.epiqsystems.com;gbivens@spencecuster.com
 James R. Walsh on behalf of Trustee James R. Walsh jwalsh@spencecuster.com,
trustee@spencecuster.com;kpetak@spencecuster.com;rsnyder@spencecuster.com;skosis@spencecuster.com
;mskunta@spencecuster.com;jwalsh@ecf.epiqsystems.com;gbivens@spencecuster.com
 Jeremy J. Kobeski on behalf of Creditor The Bank Of New York Mellon Trust Company, N.A., et.
al. pawb@fedphe.com
 Jill Lochnikar on behalf of Creditor United states of america jill.lochnikar@usdoj.gov,
patricia.fitzgerald@usdoj.gov;deborah.verrilla@usdoj.gov;caseview.ecf@usdoj.gov
 Jill Lochnikar on behalf of Defendant United States Department of Justice, et al.
jill.lochnikar@usdoj.gov,
patricia.fitzgerald@usdoj.gov;deborah.verrilla@usdoj.gov;caseview.ecf@usdoj.gov

District/off: 0315-7

User: gamr
Form ID: pdf900

Page 2 of 2
Total Noticed: 1

Date Rcvd: Jan 16, 2018

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system (continued)

Jill Locnikar on behalf of Defendant U.S Department of Education jill.locnikar@usdoj.gov, patricia.fitzgerald@usdoj.gov;deborah.verrilla@usdoj.gov;caseview.ecf@usdoj.gov
Jonathan W. Chatham on behalf of Creditor PA Dept of Revenue RA-occbankruptcy7@pa.gov
Jonathan W. Chatham on behalf of Attorney PA Dept of Revenue RA-occbankruptcy7@pa.gov
Kevin J. Petak on behalf of Trustee James R Walsh kpetak@spencecuster.com, mskunta@spencecuster.com;skosis@spencecuster.com;rsnyder@spencecuster.com;gbivens@spencecuster.com
Kevin J. Petak on behalf of Interested Party James R Walsh kpetak@spencecuster.com, mskunta@spencecuster.com;skosis@spencecuster.com;rsnyder@spencecuster.com;gbivens@spencecuster.com
Kevin J. Petak on behalf of Trustee James R. Walsh kpetak@spencecuster.com, mskunta@spencecuster.com;skosis@spencecuster.com;rsnyder@spencecuster.com;gbivens@spencecuster.com
Kevin Scott Frankel on behalf of Defendant Korde & Associates P C pabk@logs.com
Kristen D. Little on behalf of Defendant Korde & Associates P C pabk@logs.com
Kunal Janak Choksi on behalf of Defendant Internal Revenue Service kunal.j.choksi@usdoj.gov
Leonard P. Vigna on behalf of Creditor Tufts Investments, LLC lpv@ktwllaw.com, ams@ktwllaw.com;r42123@notify.bestcase.com
Office of the United States Trustee ustpregion03.pi.ecf@usdoj.gov
Ronald E. Reitz on behalf of Creditor ROSE AKE rreitz@margolisedelstein.com
Ronald E. Reitz on behalf of Plaintiff BONABERI CORPORATION rreitz@margolisedelstein.com
Ronald E. Reitz on behalf of Creditor BONABERI CORPORATION rreitz@margolisedelstein.com
Ronald E. Reitz on behalf of Plaintiff ROSE AKE rreitz@margolisedelstein.com
Stephen G. Murphy on behalf of Defendant The Commonwealth of Massachusetts murphys@dor.state.ma.us
Stephen G. Murphy on behalf of Creditor Massachusetts Department of Revenue murphys@dor.state.ma.us
Stephen G. Murphy on behalf of Defendant Commonwealth of Massachusetts murphys@dor.state.ma.us
William E. Miller on behalf of Defendant US Bank National Association as Trustee wmiller@sterneisenberg.com, bkecf@sterneisenberg.com
William E. Miller on behalf of Creditor U.S. Bank, National Association As Trustee For et al. wmiller@sterneisenberg.com, bkecf@sterneisenberg.com
William E. Miller on behalf of Creditor U.S. Bank, National Association as Trustee Under the Pooling and Servicing Agreement Dated as of May 1, 2006, GSAMP Trust 2006-HE3 Mortgage Pass-Trough Certificates Series 2006-HE3 C/O Phelan Hallinan wmiller@sterneisenberg.com, bkecf@sterneisenberg.com

TOTAL: 38